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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,538	11/12/2003	Arthur D. Johns	6678P001	9181

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EXAMINER

DOAN, ROBYN KIEU

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,538

Applicant(s)

JOHNS, ARTHUR D.

Examiner

Robyn Doan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-23 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: Attachment A.

DETAILED ACTION

Applicant's response filed 6/12/06 has been entered and carefully considered. Arguments regarding the 35 U.S.C. 102 (b) and 103 (a) have not been found to be persuasive. Therefore, claims 1-23 are rejected under the same ground rejections as set forth in the office action mailed 3/9/2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-9, 13 and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Imre (U. S. Pat. # 3,645,279).

With regard to claim 1, Imre discloses a wig (figs. 7-8) comprising a foundation (14b) having a peripheral member (25b, fig. 8, col. 4, lines 17-18) sized to be inherently capable of being worn on less than an entire portion of a scalp of a human head and enclose an occipital portion and a parietal portion of a human head. Applicant is noted that the claim limiting size by the relationship to anatomical features is as broad as there exists different anatomies, therefore, the claimed size "to be worn on less than an entire portion of a scalp of a human head and enclose an occipital portion and a parietal

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portion of a human head" is held to be as broad as there exists humans having different sizes, therefore, the shown device is inherently meets the claimed language. The intended use with a specific head is given no patentable weight. Imre also shows a longitudinal member (center member 32b, fig. 8) coupling to the peripheral member at a first point (Front portion fig. 8) and a second different point (at 24b) that bisects the peripheral member and defines a first portion (first half upper portion) and a second different portion (second half bottom portion) of the peripheral member. The wig further having a plurality of diagonal members (strips 28b toward to the front portion of the wig, fig. 8, it is also noted that "diagonal" typically is a straight line, however, Applicant has not specified its structure in the disclosure and the drawings shows diagonal members 150-1, 150-2 not being straight lines, therefore, it is proper to call strips 28b toward the front portion of the wig being diagonal member), each respectively coupled to the longitudinal member (32b) and the peripheral member (25b) distal from the longitudinal member to divide the first and second portions into geometric regions (spaces defined between strips 28b and 32b) of a dimension suitable to allow natural hair of a wearer to be drawn through the geometric regions (col. 4, lines 5-8); Imre also shows a plurality of wefts hair (12) coupled to the plurality of diagonal members (col. 4, lines 31-32). In regard to claims 4, Imre discloses the first portion (first half upper portion, see attachment A) of the peripheral member being capable to be positioned on a crown portion of an individual wearer's head between an occipital bone and a top of a parietal portion of the wearer's head (same analysis as discussed above in claim 1). In regard to claim 5, Imre shows the second portion (second half bottom portion, see attachment A)

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of the peripheral member inherently encloses a nape portion of an individual wearer's head between an occipital bone and a base of the individual wearer's scalp (same analysis as discussed above in claim 1). In regard to claims 6-7, Imre shows the geometric regions of the first and second portions include triangles, spherical triangles (see attachment A) in view of Applicant's definition about triangles (specification, pages 7-8, paragraph 33). In regard to claim 8, Imre discloses the first portion of the peripheral member being capable to be positioned on a crown portion of an individual wearer's head and a number of geometric regions (spaces, see attachment A) within the first portion being selected to achieve a desired volume (any volume) of an individual wearer's hair (col. 1, lines 55-59). In regard to claim 9, Imre further shows a number of geometric region being within a second portion (attachment A) and also with regard to limitations "is determined based on a desired length of the individual wearer's head" which appears to be directed to a method of using and not to the actual structure of the device, thus, it has been given no weight. With regard to claim 13, Imre discloses the wefts of hair (12) being attached in a desired direction (any direction, figs. 4-5, col. 4, lines 31-35) according to a style desired by an individual wearer. In regard to claim 19, by showing the above device, Imre shows coupling a device (wig 10) to an individual wearer's hair using an attachment device (elastic strip 24, col. 2, lines 37-40), applying outside pressure (by pulling legs 20 downwardly, col. 2, lines 49-55) to a foundation (14) to inherently cause the foundation to conform to the contours of the individual wearer's head and drawing the individual wearer's hair through geometric regions (spaces between intersecting strips 28b, 32b, fig. 8) to blend the individual wearer's hair with

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wefts of hair (12) sewn to the device (col. 2, lines 24-25). In regard to claim 20, Imre shows the device (10) being coupled at a crown portion of an individual wearer's head, see fig. 1. In regard to claim 21, Imre shows the individual wearer's hair being drawn through triangular geometric regions (attachment A shows triangular regions, col. 4, lines 1-8) of the device in order to obscure the foundation of the device. In regard to claim 22, Imre discloses a first portion (first upper half portion of the peripheral member 25b, fig. 8) of the device inherently capable of attaching to a crown portion of the individual wearer's head between an occipital bone and a top of a parietal portion of the wearer's head (same analysis as discussed above in claim 1). In regard to claim 23, Imre also shows a second portion (second half bottom portion of peripheral member 25b, fig. 8) of the device inherently capable of enclosing a nape portion of an individual wearer's head between an occipital bone and a base of the individual wearer's scalp (same analysis as discussed above in claim 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Imre in view of Ensminger (U.S. Pat. # 3,628,546).

With regard to claim 2, Imre discloses a wig comprising all the claimed limitations in claim 1 as discussed above except for the peripheral member having a wire. Ensminger discloses a wiglets (fig. 1) comprising a peripheral member (10, figs. 2 and 5) having a wire (col. 2, lines 24-25). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify the wire peripheral member as taught by Ensminger into the device of Imre in order to enhance the durability and flexibility to the device.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Imre in view of Narwick (U.S. Pat. # 5,873,373).

With regard to claim 3, Imre discloses a wig comprising all the claimed limitations in claim 1 as discussed above except for a clip coupled to a portion of the peripheral member adapted to engage a portion of the wearer's head. Narwick discloses a wig (figs. 2 and 3b) comprising a peripheral member (26, fig. 2) including clip (30 fig. 3b, col. 3, lines 66-67 and col. 4, line 1 and lines 5-6). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the clip as taught by Narwick into the peripheral member of Imre in order to better hold the wig to the wearer's head.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imre in view of Yonezo Ito (U. S. Pat. # 3,435,832).

With regard to claims 10-12, Imre discloses a wig comprising all the claimed limitations in claim 1 as discussed above except for the foundation having a cloth material coupled at adjacent opposing side edges of the cloth material (claim 10); Imre also does not disclose the foundation including a wire and the cloth material surrounds the wire (claim 11) and wherein the plurality of weft hairs being coupled to the cloth material such that a weft portion of the plurality of wefts contact a first side of the cloth material and a different side of the cloth material (claim 12). Yonezo Ito discloses a wig framework (fig. 1) comprising a frame (1) being made of wire (steel, col. 1, lines 66-68), the framework having a cloth material (5) coupled at adjacent opposing side edges of the cloth material (col. 2, lines 33-35) and the cloth material surrounds the wire frame (col. 2, lines 29-30). Yonezo Ito also shows a plurality of hair coupled to the cloth material (fig. 1, col. 2, lines 29-30) such that the hair being in contact to one side of the cloth material. Yonezo Ito further shows additional cloth (9) being provided (col. 2, lines 44-49) therefore forming a portion of a hair contact a first side of the cloth material (5) and a different side of cloth material (9). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the teaching of Yonezo Ito by providing a cloth material to cover the wire frame as well as the hairs into the wig with wefts of hair of Imre for the purpose of providing a comfortable feeling to the wearer. Also, with regard to the limitations "such that a weft portion of the plurality of wefts contact a first side of the cloth material and a different side of the cloth material" of

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the claim 12 Applicant has not disclosed that placing the hair wefts contacting a first side and a different side of the cloth material provides an advantage, is used for a particular purpose, or solves a stated problem. Therefore, it would have been prima facie obvious to modify the hair of Yonezo Ito contacting different sides of the cloth material since such a modification would involved a mere design choice and one would expect an equivalent effect with the modified component.

Response to Arguments

Applicant has argued that Imre fails to show “generally peripheral member sized to be worn on less than an entire portion of a scalp of a human head”, however, as explained above, when Applicant is trying to limit the structures of a device to a human anatomy, it is broad as there exists different anatomies and as such it is held the shown structure meets the claimed language.

Applicant has also argued that office action only pointed out a single strip 28b at the front of the wig and therefore does not teach a plurality of diagonal members. Applicant is noted that the above office action has recited “strips 28b” in page 3 and showing at least two strips 28b in fig. 8 toward the front portion being diagonal members. Applicant has further argued that the members (strips 28) of Imre lying within parallel planes which are perpendicular to the major axis of the peripheral member 25b and therefore, strips 28b are not diagonal members. This is not correct because in fig. 8, at least two strips 28b toward the front portion of the wig being neither parallel nor

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perpendicular to the longitudinal and the peripheral members, therefore it is proper to call them as diagonal members. Applicant has also argued that only a small amount of the user's hair is pulled through the geometric regions such that it creates nothing more than a streaking effect, therefore it fails to show geometric regions which allow natural hair to enhance a style of the wig. Applicant is noted that all the claimed structures have been shown, the intended use is given no patentable weight.

With regard to claim 19, Applicant has argued that Imre fails to show the step of "applying outside pressure to a foundation of the device to cause the foundation of the device to conform the contours of an individual wearer's head". Applicant is noted that col. 2, lines 49-55 shows a step of donning the wig by using the ears 26 as the gripping to pull the legs 20b downwardly alongside the user head; such features clearly show the step of applying outside pressure to the foundation which inherently conforms the contours of the user's head.

In regard to claim 2, Applicant has argued that because the wire of Ensminger is not resilient, therefore, it teaches away from Imre's device, however, Ensminger clearly shows a peripheral member being made of resilient member such as a wire, col. 2, lines 24-25. The purpose of using a wire as taught by Ensminger to provide durability and flexibility to the device.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robyn Doan
Examiner
Art Unit 3732



CRIS L. RODRIGUEZ
PRIMARY EXAMINER

Attachment A

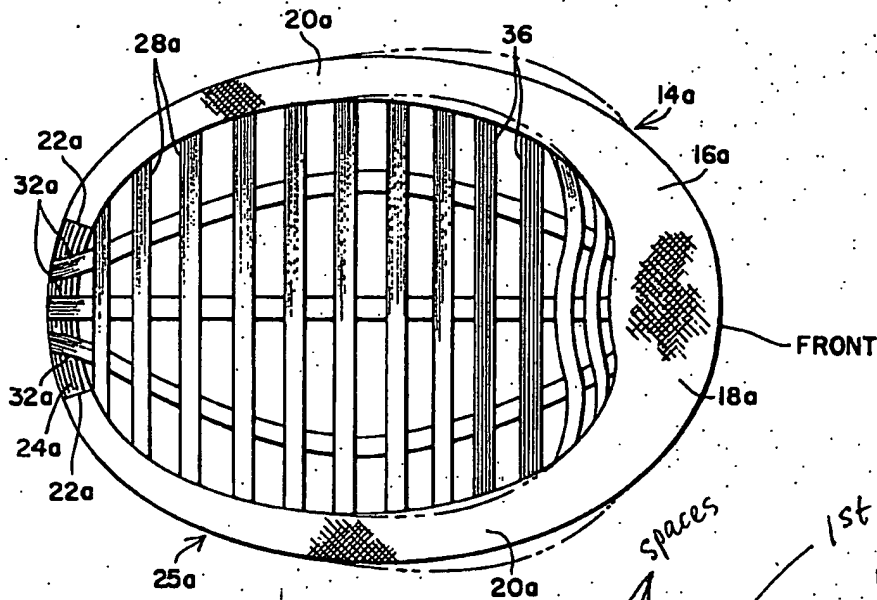


Fig. 7.

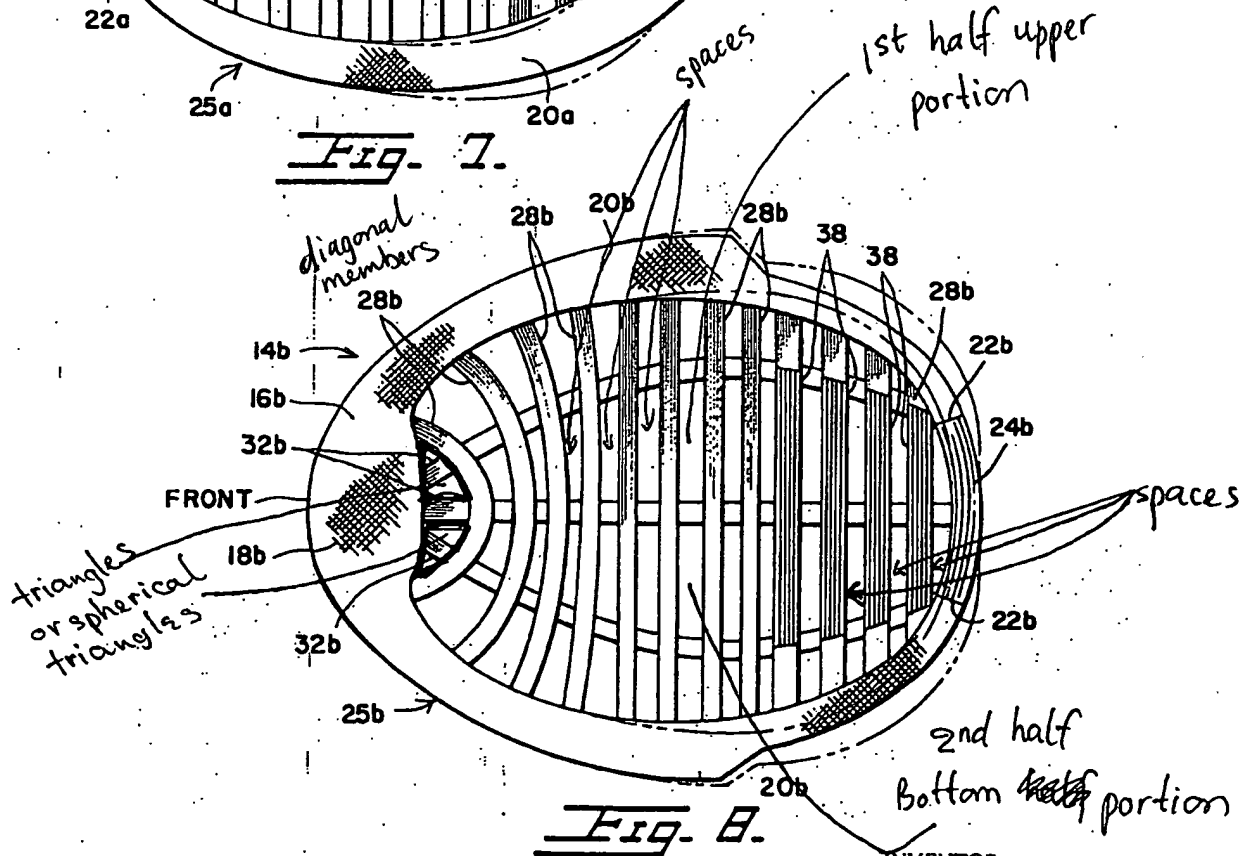


Fig. 8.

INVENTOR

JULIUS IMRE

BY

Polach & Saulsbury
ATTORNEYS